

### **REMARKS / ARGUMENTS**

The present application includes pending claims 1-31, all of which have been rejected. The Applicant respectfully submits that the claims define patentable subject matter.

Claims 1-31 stand rejected under 35 U.S.C. § 102(e) as being anticipated by U.S. Patent Application Publication No. 2002/0104099 ("Novak"). The Applicant respectfully traverses these rejections at least for the reasons previously set forth during prosecution and at least based on the following remarks.

#### **I. Examiner's Response to Arguments**

The Examiner states the following in the "Response to Arguments" section of the Office Action:

The Examiner has equated Upload Source 122 to Applicant's "first geographic location" and STB 152 to Applicant's "second geographic location" in order to establish points of reference in addressing the limitation "push[ing] from the first geographic location to a second geographic location" using Novak method of Figure 11. The Examiner presents that Novak defines Upload Source 122 to function as an "individual" or an "organization" (Paragraph [0039]), a "consumer" (Paragraph [0056]), and "can comprise or can use a set top box, a PC, or other access device..." (Paragraph [0056]). It is the Examiner's position that Upload Source 122 is structurally and functionally equivalent to the STB 152 based on Novak's disclosure Paragraphs [0039,0056]. Therefore, Upload Source 122, which can comprise a set top box, is also capable of viewing EPG 152 containing a plurality of channels shown as Television Channels 902 and synthetic channel Listing 908. In order to further clarify this position, this Office Action addresses Applicant's "second geographic location" as "client terminal of end user at STB 152",

which is in accordance with Novak's Block 1116 of Fig. 11, as described in Paragraph [0086].

See the Office Action at pages 3-4. The Applicant respectfully disagrees with the above arguments. The Examiner is primarily relying for support on paragraph 0039 of Novak, which discloses that the upload source 122 can include an individual or organization that uses a device, such as a set-top box, a PC or another device, to upload information. The Examiner then alleges that the upload source 122 is "structurally and functionally equivalent to the STB 152 based on Novak's disclosure in paragraphs 0039 and 0056." **The Applicant respectfully disagrees and submits that there is absolutely no support in Novak for such structural and functional equivalence. On the contrary, Novak very clearly describes that the upload source 122 and the STB 152 at the end user location are not only at separate geographic locations but perform specific and separate functionalities.** For example, regardless of the fact that the upload source 122 can include an individual or organization that uses a set-top box, such individual or organization uses the set-top box (at the first geographic location) only "to make information available via the Internet". In other words, Novak discloses that the functionality of the upload source 122 (at the first geographic location) is to only upload information and make it available via the Internet to other users.

As stated in Applicant's claim 1, the media channel is being pushed from the first geographic location to the second geographic location. With reference to Novak, the media is communicated from the upload source 122 at the first geographic location to

the user at STB 152 at the second geographic location. Novak discloses that the selection and viewing of media is performed only at the second geographic location of the user/STB 152.

## **REJECTION UNDER 35 U.S.C. § 102**

### **II. Novak Does Not Anticipate Claims 1-31**

The Applicant now turns to the rejection of claims 1-31 under 35 U.S.C. 102(e) as being anticipated by Novak. With regard to the anticipation rejections under 102, MPEP 2131 states that “[a] claim is anticipated only if **each and every element** as set forth in the claim is found, either expressly or inherently described, in a single prior art reference.” See Manual of Patent Examining Procedure (MPEP) at 2131 (internal citation omitted). Furthermore, “[t]he identical invention must be shown in as complete detail as is contained in the ... claim.” See *id.* (internal citation omitted).

Without conceding that Novak qualifies as a prior art under 35 U.S.C. § 102(e), the Applicant traverses the rejection as follows.

#### **A. Rejection of Independent Claims 1, 11, and 21 under 35 U.S.C. § 102(e)**

With regard to the rejection of independent claim 1 under 35 U.S.C. § 102(e), the Applicant submits that Novak does not disclose or suggest at least the limitation of “presenting for displaying, at a first geographic location, said schedule comprising said

one or both of personal media and/or broadcast media in a media guide, wherein said media guide comprises a plurality of channels, and wherein one or more of said plurality of channels may be selected and viewed at said first geographic location," as recited by the Applicant in independent claim 1.

The Office Action states the following:

In reference to Claim 1, Novak teaches a method of customizing a channel interface (shown in Figure 11 as described in Paragraphs [0078-0086]), the method comprising:

. . .

presenting for displaying, at a first geographic location (Upload Source 122, which can be an "individual", an "organization" or a "consumer" and "can comprise or can use a set top box, a PC, or other access device...", as described in Paragraphs [0039,0040,0056]; with further reference to [0041,0046,0055,0056,0068,0070, 0074,0080]), the schedule comprising the one or both of personal media and/or broadcast media in a media guide (Block 1116 of Figure 11 as described in Paragraph [0086], with further reference to Block 1112 as described in Paragraph [0084]. In these steps the schedule of media created from interface of Fig. 6 and 7 is presented to a STB 152 user by way of EPG 153 as shown in Fig. 9 and described in Paragraphs [0074-0075]), wherein the media channel may be pushed from the first geographic location to a second geographic location (Block 1104 to Block 1112 of Figure 11, as described in Paragraphs [0078-0083], demonstrating the process of providing access to information related to media objects by way of Interface 702; with further reference to Paragraph [0075] and Blocks 1114-1116 of Fig. 11 describing operations of client terminal of end user STB 152 at a [equated to Applicant's "second geographic location"]); wherein the media guide comprises a plurality of channels, and wherein one or more of said plurality of channels may be selected and viewed at the first geographic location (EPG 153 of Fig. 9 displays multiple channels to the end user in the form of Television Channels 902 and synthetic channel Listing 908, as described in Paragraph [0074]. In addition Remote Control Unit 158 is used to tune Television Set 154 to Television

Programs 906 and synthetic channel media 910, as described in Paragraphs [0075]).

See the Office Action at pages 5-6. In page 5 of the Office Action, **the Examiner has equated Applicant's "first geographic location" to the location of Novak's upload source 122.** Furthermore, the Examiner has equated Applicant's "second geographic location" to the location of Novak's set-top-box (STB) 152. Assuming for the sake of argument that a media channel may be pushed from source 122 (equated by the Examiner to "the first geographic location") to STB 152 (equated by the Examiner to "a second geographic location"), the Examiner's argument is still deficient. More specifically, the relevant claim limitation is "presenting, at a first geographic location, ... a media guide, wherein said media guide comprises a plurality of channels that may be selected and viewed at said first geographic location," as recited in Applicant's claim 1. However, **Novak discloses that the media guide (or EPG 153) is only displayed at the location of the STB 152 (equated by the Examiner to "a second geographic location").** Novak simply does not disclose that any media guide is presented at the source 122 (equated by the Examiner to "the first geographic location").

Referring to page 2 of the July 17, 2008 Advisory Office Action as well as the above citation from the current Office Action, it appears that the Examiner is also relying for support on FIGS. 7 and 11 of Novak. More specifically, the Examiner is equating the synthetic channel schedule (as illustrated in Novak's

FIG. 7) with Applicant's "media guide." The Applicant respectfully disagrees and points out that FIG. 7 simply illustrates how the upload source 122 may organize various media objects into a single synthetic channel. In this regard, Novak does not disclose that the synthetic channel schedule comprises a plurality of channels that may be selected and viewed at the first geographic location, i.e., the location of the upload source 122. Furthermore, Novak explicitly states that the various media objects that are organized into the single synthetic channel are ultimately "accessible/displayable from the EPG 153." See Novak at ¶ 0063. In other words, media objects from the single synthetic channel are accessed and displayed at the location of the STB 152 (equated by the Examiner to "a second geographic location"), and not from the location of the source 122 (equated by the Examiner to "the first geographic location").

Therefore, the Applicant maintains that Novak does not disclose or suggest at least the limitation of "presenting for displaying, at a first geographic location, said schedule comprising said one or both of personal media and/or broadcast media in a media guide, wherein said media channel may be pushed from said first geographic location to a second geographic location, wherein said media guide comprises a plurality of channels, and wherein one or more of said plurality of channels may be selected and viewed at said first geographic location," as recited by the Applicant in independent claim 1.

Accordingly, independent claim 1 is not anticipated by Novak and is allowable. Independent claims 11 and 21 are similar in many respects to the method disclosed in independent claim 1. Therefore, the Applicant submits that independent claims 11 and 21 are also allowable over the references cited in the Office Action at least for the reasons stated above with regard to claim 1.

**B. Rejection of Dependent Claims 2-10, 12-20, and 22-31**

Based on at least the foregoing, the Applicant believes the rejection of independent claims 1, 11, and 21 under 35 U.S.C. § 102(e) as being anticipated by Novak has been overcome and requests that the rejection be withdrawn. Additionally, claims 2-10, 12-20, and 22-31 depend from independent claims 1, 11, and 21, respectively, and are, consequently, also respectfully submitted to be allowable.

The Applicant also reserves the right to argue additional reasons beyond those set forth above to support the allowability of claims 2-10, 12-20, and 22-31.

In general, the Office Action makes various statements regarding claims 1-31 and the cited reference that are now moot in light of the above. Thus, the Applicant will not address such statements at the present time. However, the Applicant expressly reserves the right to challenge such statements in the future should the need arise (e.g.,

Application № 10/675,904  
Reply to Office Action of 09/30/2008

if such statement should become relevant by appearing in a rejection of any current or future claim).



**CONCLUSION**

Based on at least the foregoing, the Applicant believes that all claims 1-31 are in condition for allowance. If the Examiner disagrees, the Applicant respectfully requests a telephone interview, and requests that the Examiner telephone the undersigned Attorney at (312) 775-8176.

The Commissioner is hereby authorized to charge any additional fees or credit any overpayment to the deposit account of McAndrews, Held & Malloy, Ltd., Account No. 13-0017.

A Notice of Allowability is courteously solicited.

Respectfully submitted,

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